

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:14CR139 RAS/DDB
	§	
DOUGLAS DUANE FLOWERS	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 6, 2015, to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Camelia Lopez.

On June 24, 2011, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 33 months imprisonment followed by a 36 month term of supervised release for the offense of conspiracy to commit fraud in connection with access devices. Defendant began his term of supervision on November 6, 2012.

On December 5, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 2). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any paraphernalia related to any controlled

substances, except as prescribed by a physician; and (3) Defendant shall participate in a program approved by the United States Probation Office for the treatment of narcotic addiction, drug dependency, or alcohol dependency, which will include testing to determine if he had reverted to the use of drugs and alcohol. If it is determined by the Probation Officer that Defendant is in need of a residential drug/alcohol treatment program, he shall participate in such treatment as directed by the Probation Officer and remain in the treatment facility until successfully discharged.

The Petition alleges that Defendant committed the following violations: (1) On May 28, June 25, September 8, and November 21, 2014, Defendant submitted urine specimens which tested positive for methamphetamine. Defendant has admitted verbally and in writing to the first three said drug uses. The specimen collected on November 21, 2014, was confirmed by laboratory testing; and (2) Defendant failed to submit to drug testing as directed on May 27, and October 29, 2014. Defendant also failed to attend substance abuse treatment at Pillar Counseling as directed on July 17, July 29, September 15 and November 14, 2014.

Defendant did not waive his right to allocute before the District Judge. Defendant further did not waive his right to object to this Report and Recommendation.

Having considered the allegations made and testimony presented, the Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the January 6, 2015 hearing, the Court recommends that Defendant be committed to the

custody of the Bureau of Prisons to be imprisoned for a term of twenty-one (21) months, with fifteen (15) months supervised release to follow.

Within fourteen (14) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations contained herein. 28 U.S.C.A. § 636(b)(1)(C).

SIGNED this 28th day of January, 2015.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE